

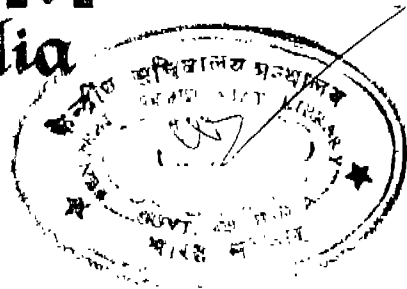


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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Report of the Joint Committee on the Bill further to amend the Constitution of India viz., the Constitution (Seventy-second Amendment) Bill, 1991 (Insertion of new Part IX and addition of Eleventh Schedule) was presented on 14 July, 1992:—

COMPOSITION OF THE COMMITTEE

Shri Nathuram Mirdha— *Chairman*

MEMBERS

LOK SABHA

2. Shri Mani Shankar Aiyar
3. Shri Lal Jan S. M. Basha
4. Shri H. D. Devegowda
5. Shri Digvijaya Singh
6. Shri Bhogendra Jha
7. Shri D. D. Khanoria
8. Shri M. Krishnaswamy
9. Shri Nitish Kumar
10. Shri Rameshwar Patidar
11. Smt. Suryakanta Patil
12. Shri R. Ramasamy
13. Dr. Sudhir Ray

14. Dr. Sakshiji Maharaj Swami
15. Shri P. M. Sayeed
16. Shri Rampal Singh
17. Shri Satya Deo Singh
18. Shri Shiv Sbaran Sinha
19. Prof. K. V. Thomas
20. Shri Mukul Balkrishna Wasnik

RAJYA SABHA

21. Shri Rafique Alam
22. Shri Dipen Ghosh
23. Shri H. Hanumanthappa
24. Shrimati Kailashpathi
25. Shri S. Madhavan
26. Shri Kameshwar Paswan
27. Shri Chhotubhai Patel
28. Shri Shankar Dayal Singh
29. Shri Subramanian Swamy
- *30. Vacant

SECRETARIAT

1. Shri G. L. Batra—Additional Secretary
2. Shri S. C. Gupta—Joint Secretary
3. Shri R. K. Chatterjee—Deputy Secretary
4. Shri D. L. Kapur—Assistant Director

LEGISLATIVE COUNSEL

1. Shri B. S. Saluja—Joint Secretary and Legislative Counsel
2. Shri K. N. Chaturvedi—Deputy Legislative Counsel

REPRESENTATIVES OF THE MINISTRY OF RURAL DEVELOPMENT

1. Shri S. R. Sankaran—Secretary
2. Shri S. Som—Additional Secretary
3. Shri D. Singhai—Deputy Secretary

*Shri Prabhakar Rao Kalvala ceased to be a member of the Committee w.e.f. 2-4-1992 on the expiry of his term in Rajya Sabha and the vacancy was not filled up.

REPORT OF THE JOINT COMMITTEE ON THE CONSTITUTION
(SEVENTY-SECOND AMENDMENT) BILL, 1991

1. the Chairman, of the Joint Committee to which the Bill* further to amend the Constitution of India viz. the Constitution (Seventy Second Amendment) Bill, 1991 (Insertion of new Part IX and addition of XIth Schedule) was referred, having been authorised to submit the Report on their behalf present this Report.

2. The Bill was introduced in the Lok Sabha on 16 September, 1991. The motion for reference of the Bill to a Joint Committee of both Houses of Parliament was moved in Lok Sabha by Shri G. Venkataswamy, Minister of State in the Ministry of Rural Development on 20 December, 1991 and was adopted.

3. The Rajya Sabha concurred in the said motion on 21 December, 1991.

4. The message from Rajya Sabha was published in Lok Sabha Bulletin Part II on 24 December, 1991.

5. The Committee held 13 sittings in all.

6. The first sitting was held on 22 January, 1992. At this sitting, the Committee considered their future programme of work and decided to invite Memoranda containing comments/suggestions on the provisions of the Bill by 24 February, 1992 from the State Governments/Union Territory Administrations, public bodies, organisations and individuals etc. interested in the subject matter of the Bill for their consideration.

The Committee further decided that a detailed questionnaire on the subject might be prepared by the Ministry of Rural Development which could be forwarded to these organisations, bodies, individuals etc. to enable them to submit their Memoranda to the Committee.

Accordingly, a press communique inviting Memoranda and requests for oral evidence was issued on 22 January, 1992. The Director General, All India Radio and the Director General, Doordarshan, New Delhi were also requested to broadcast the contents of the press communique from all stations of All India Radio/telecast it from all Doordarshan Kendras on three successive days in English and Hindi and in regional languages.

7. As per decision taken by the Committee a circular letter inviting Memoranda containing comments/suggestions on the provisions of the Bill was also issued to the Chief Secretaries of all the State Governments/Union Territory Administrations and individuals whose names were furnished by the Ministry of Rural Development.

8. 38 Memoranda containing comments/suggestions on the provisions of the Bill were received by the Committee from various organisations/individuals etc.

9. The Committee visited Hyderabad on 19 and 20 February, 1992 and held informal discussions with the representatives of (i) State Government of Andhra Pradesh; and (ii) National Institute of Rural Development.

*Published in the Gazette of India Extraordinary Part II Section II dated 16 September, 1991.

10. At their sittings held on 16 and 17 March, 1992, the Committee took oral evidence of 6 local organisations/individuals. Committee also took evidence of 3 organisations/individuals based outside Delhi at their sitting held on 30 March, 1992.

11. The Report of the Committee was to be presented to the House by the last day of the first week of the Budget Session, 1992. The Committee were, granted two extensions of time for presentation of their Report—first on 26 February, 1992 upto 30 April, 1992, and on 30 April, 1992 upto the last day of the first week of Monsoon Session, 1992.

12. The Committee held Clause by Clause general discussion on the provisions of the Bill on the basis of amendments proposed by the Members at their sittings held on 11 & 12 May and again from 9 to 11 June, 1992.

13. The Committee at their sitting held on 29 June, 1992 considered the Bill Clause-by-Clause.

14. At their sitting held on 30 June, 1992 the Committee decided that (i) the evidence tendered before the Committee might be laid on the Table of both Houses of Parliament, and (ii) two copies each of Memoranda received by the Committee might be placed in the Parliament Library, after the report had been presented for reference by the Members of Parliament.

15. The Committee considered and adopted the Report at their sitting held on 30 June, 1992. d

16. The observations of the Committee with regard to principal changes proposed in the Bill are detailed in the succeeding paragraphs.

17. Article 243.—The Committee feel that the definition of the expression "Gram Sabha" as included in Article 243A(2) should be included in Article 243, since all other expressions have been defined in Article 243.

A new clause (b) relating to definition of "Gram Sabha" has been added accordingly in Article 243 and existing clauses (b) to (f) have been renumbered as clauses (c) to (g) of that Article.

18. Article 243A.—The Committee feel that the "Gram Sabha" cannot exercise any powers and that at best it can perform certain functions. The details of such functions can be laid down by the Legislature of a State.

Article 243A has been revised accordingly. Clause (2) of this Article has been omitted as definition of "Gram Sabha" has been included in Article 243.

19. Article 243B.—The Committee find that there is wide diversity in the number of tiers of Panchayats existing in by different States. The Committee note that the majority of the bigger States have three-tier system. Even where there is a three tier system, there are structural differences in States like Karnataka, Tamil Nadu and Assam. However, there are States like Haryana, Manipur, Kerala and Sikkim and Union Territory of Lakshadweep with only two-tier system adopted by them. Still there are some States like Goa, Jammu and Kashmir and Tripura and the Union territories like Andaman and Nicobar Islands and Dadra and Nagar Haveli, etc. which follow only one-tier system. The Committee are of the opinion that a common and uniform three-tier system of Panchayats may be adopted throughout the country.

Article 243B has been amended accordingly.

20. Article 243C.—The Committee note that the issue relating to direct or indirect elections in Panchayati Raj Institutions is very vital. Directly elected persons have an inherent strength of having been elected by the people. Moreover, indirect elections have led to various manipulative practices. The Committee, therefore, are of the opinion that in order to strengthen the democracy at the grass-root level, all seats in a Panchayat at any level should be filled by direct elections. The Committee also agree that as provided in the Bill it may be left to the Legislature of a State to make provisions relating to representation of Chairpersons of Panchayats in the Panchayats at the next higher level, e.g., the Chairperson of the Panchayat at the village level may be represented at the intermediate level and Chairperson of the Panchayat at the intermediate level may be represented at the district level.

The Committee are also of the opinion that the Legislature of a State may also make necessary provisions regarding the representation of members of the Rajya Sabha and Members of the Legislative Council of a State, where they are registered as electors in the Panchayat area at the intermediate level, in the Panchayats at the intermediate level and where they are registered as electors in a Panchayat area at the district level, in such Panchayat at the district level.

Clauses (2) and (4) of Article 243C have been amended accordingly and clause (3) has been omitted as all seats in Panchayats will be filled by direct election.

The Bill provides that only the Chairperson and directly elected members of a Panchayat have the right to vote in the meetings of the Panchayat. The Committee are of the opinion that all members of a Panchayat irrespective of the fact whether or not chosen by direct elections should be given the right to vote in the meetings of the Panchayat for their smooth functioning.

The provisions of clauses (5) and (6) of Article 243C have been clubbed accordingly and incorporated in the revised clause (4).

The Committee further feel that the Chairperson of a Panchayat at the village level only should be chosen by direct election and that the Chairperson of a Panchayat at the intermediate level or district level should be chosen by indirect election. Where the Chairperson of a Panchayat at the village level has been chosen by direct election, he shall not be removed from that office unless the Panchayat has made a recommendation to the Gram Sabha to that effect after adopting a motion by a majority of the total number of the elected members of the Panchayat and by a majority of not less than two-thirds of the members present and voting and the Gram Sabha at the specially convened meeting after a notice of not less than fifteen days has passed a resolution for such removal by a majority of its members present and voting, so however, that not less than fifty per cent of the members are present at such meeting. If the meeting cannot be held for want of quorum, the Panchayat's motion shall lapse and no further motion for removal of the Chairperson shall be brought within one year of the date of adoption of the previous motion. Similarly, where the Chairperson of a Panchayat has been chosen by indirect election he shall not be removed from that office unless the Panchayat has passed a resolution to that effect by a majority of the total number of the elected members of the Panchayat and by a majority of not less than two-thirds of such members present and voting.

Clause (7) of Article 243C has been amended accordingly and renumbered as clause (5). New clauses (6) and (7) have also been inserted to give effect to the above recommendations.

21. Article 243D. It has been represented before the Committee that in some State seats reserved for Scheduled Castes are filled in by Scheduled Tribes either due to non-availability of such candidates or owing to some other reasons.

Clause (1) of the Article has, therefore, been slightly amended to make it clear that the seats will be reserved for Scheduled Castes and Scheduled Tribes separately.

22. Article 243E.—The Committee find that in order to ensure durability of, and building up confidence in, Panchayati Raj Institutions, it is provided that every Panchayat should have a duration of five years. However, keeping in view the fact that Panchayats at any level can be superseded for indefinite periods or they can be dissolved, and in certain cases elections of these institutions have not been held for long periods, the Committee recommend that the elections to these bodies must be completed before the expiration of their duration of five years. Similarly, in case a Panchayat is dissolved before the expiration of its duration, election to constitute a new Panchayat must be completed before the expiry of a period of six months from the date on which it was dissolved. The Committee also feel that no amendment of any State law should have the effect of causing dissolution of Panchayats which are functioning immediately before such amendment, before the expiration of their duration of five years.

Existing clause (2) has been amended accordingly and re-numbered as clause (3) and a new clause (2) has been inserted in this Article. Certain consequential amendments have also been made in clause (1).

23. Article 243F. The Committee note that in order to prevent undesirable persons from becoming members in the Panchayats, certain provisions for disqualification have been included in the Bill. These are based on similar provisions with respect to disqualification for Members of Parliament and State Legislatures.

The Committee feel that the existing sub-clauses (a) to (d) of clause (1) are covered by the provisions of sub-clause (e) and they are also of the opinion that with the advent of electronic media and rise in standards of general education, the level of awareness amongst people in small towns and cities has gone up. Now, a person of the age of twenty-one years is responsible enough to hold a public office. The Committee are, therefore, of the opinion that all persons who have attained the age of twenty-one years should be eligible to stand for election in the Panchayati Raj Institutions. The Committee further feel that the disputes relating to disqualification instead of being referred for the decision of the Governor should be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

Sub-clauses (a) to (d) have been omitted and Sub-clause (e) of clause (1) and clause (2) of Article 243F have been amended accordingly.

24. Article 243 I.—The amendment made in clause (1) of Article 243 I is of a formal nature.

25. Article 243K.—The Committee note that the elections in Panchayati Raj Institution are to be conducted under the superintendence, direction and control of the Chief Electoral Officer of a State who is accountable to and a functionary of the Chief Election Commissioner so far as conducting of elections is concerned. The Committee feel that it should be left to the Legislature of a State to provide for a separate authority for conducting the said elections.

Article 243K has been amended accordingly.

Article 243L.—The Committee feel that the enabling power of the President not to apply the provisions of Part IX to any Union Territory should be omitted. The President should only have the power to apply the said provisions to any Union Territory or part thereof subject to such exceptions and modifications as he may specify by public notification.

Article 243L has been modified accordingly.

26. Article 243N.—The Committee feel that all the existing State laws relating to Panchayats which are inconsistent with the provisions of Part IX proposed to be inserted by this Bill, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the commencement of this Legislation, whichever is earlier. The Committee note that the duration of the existing Panchayats, shall not be affected by it in view of the stipulation in proviso to this Article.

Article 243N has been amended accordingly.

27. Clause (1) and Enacting Formula.—

The amendments made in clause (1) and the enacting formula are of a formal nature.

28. The Joint Committee recommend that the Bill, as amended be passed.

NEW DELHI;
30 June, 1992.

NATHURAM MIRDHA,
Chairman.
Joint Committee.

MINUTES OF DISSENT

I

It may be noted that in terms of Entry 5 of List II (State List) of the Constitution, the State Governments are competent to legislate on issues relating to local self-government. Article 40 of the Constitution also makes it incumbent on the State to take steps to organise Panchayats at village level and also intermediate and district levels as may be considered necessary and endow them with such powers and authority as may be necessary to enable them to function as units of local self-government. We, therefore, feel that it lies entirely in the State's domain to decide and legislate on the subject. We also feel that this is an issue which would call for local variations depending on regional needs and as such it would be difficult to have a uniformity in legislation. In view of this a Constitutional Amendment would, perhaps, not be considered to be a substitute to political will and land reforms, two most important pillars on which any meaningful effort of democratic decentralisation must depend. However, if a consensus on the subject favours Constitutional Amendment, then the only three objectives to which it should be strictly confined to are (1) ensuring regular elections, (2) reservation for Scheduled Castes/Scheduled Tribes and Women and (3) constitutional sanction for devolution of power by way of providing a separate schedule of subjects. State Legislature should be free to prescribe all other details according to suitability, convenience and regional needs.

Keeping in view the above principle, we as Members of the Jt. Committee on Constitution (72nd Amendment) Bill, 1991 have made sincere efforts to arrive at a consensus while considering clause-by-clause Amendments of the Bill under reference. In our endeavour to achieve consensus we agree to most of the amendments, as finally made, notwithstanding our differences with majority opinion on certain matters. But we are constrained to oppose the following clauses and make our suggestions to substitute them. Necessary explanatory notes for it are also appended below.

(1) *Clause 243C(5)(a)*—It provides direct election of the Chairperson of a Panchayat at the village level.

We do not favour the direct election for the Chairperson at any level because it may, by chance, result in a contradictory situation where the directly elected Chairperson may not enjoy the support of the majority members of the Panchayat Body. Besides, the provision for removal of the Chairperson by the elected members of the Panchayats as made in Clause 243C(6) may not sustain the test of law if the Chairperson of a Panchayat at the village level is directly elected, as only the electorate has the right to do so. Hence, we propose that the Chairperson of a Panchayat at the village level shall be elected by, and from amongst, elected members thereof, as has been provided for in the Clause 243C(5)(b) in the case of Panchayats at the intermediate and district levels. However, in order to achieve a consensus we may agree if the existing Clause is substituted by the following:

243C(5)(a)—A Chairperson of a Panchayat at the village level shall be chosen by election in such a manner as the State Legislature of the State may, by law, provide.

Clause 243M(2)(b)—It enjoins that the provision of Part IX would not apply to certain areas including hill areas of the District of Darjeeling in the State of West Bengal for which the Darjeeling Gorkha Hill Council exists.

We are opposed to this provision. In our views the Panchayats at the village and the intermediate level in the hill areas of Darjeeling District should continue. Sections 31 and 32 of the Darjeeling Gorkha Hill Council Act of 1988 empowers the Darjeeling Gorkha Hill Council to exercise supervision of Municipalities, Panchayat Samities (i.e. Panchayat at the intermediate level) and gram panchayats (Panchayat at the village level) including the inspection of their work. This clearly underlines the fact that there is no bar in constituting panchayats at village and intermediate levels under the Darjeeling Hill Gorkha Council Act, 1988. Hence we propose that the words "and the Hill areas of the District of Darjeeling in the State of West Bengal for which the Darjeeling Gorkha Hill Council exists" in the Clause 243M(2)(b), be deleted.

We request you to take it as our Note of Dissent and take steps for its incorporation in the Report as its enclosure.

NEW DELHI;

Dated the 30 June, 1992

SUDHIR RAY

DIPEN GHOSH

II

I am broadly in agreement with the changes recommended by the Joint Committee in the Constitution (Seventy Second Amendment) Bill, 1991. On one point I would like to record my views separately. This is regarding provision in the Constitution for entrusting to the Panchayats at the village level the power to adjudicate on disputes arising within the Panchayat area. I feel that there should be a provision in the Constitution (Amendment) Bill for such empowerment of the Panchayats at the village level. As this has not found favour with some other Member of the Committee on the ground that this idea was not included in the original Bill, I am constrained to record my views separately. Before doing that it is necessary to say a few words about the Bill itself.

2. The Constitution (Seventy-Second Amendment) Bill dealing with Panchayati Raj Institutions has been born out of a feeling that these institutions, so necessary for effective governance of our country, have not acquired the legal, administrative and political stature due to them. It was, therefore, felt that in the Constitution itself provision should be made with regard to some basic features of the Panchayati Raj Institutions in the country so that those aspects will be taken out of the purview of day to day political and administrative exigencies in the States. This is the vision which has guided me and, I am sure, the other Members of the Committee in applying our mind to this important task.

3. As I have mentioned earlier, the Bill is essentially an instrument of empowerment of Panchayati Raj Institutions to enable them to function as vibrant democratic institutions of our polity. The Bill provides for devolution of administrative and developmental powers to these Bodies and also lays down a framework for determining the mode of flow of financial resources to them. This process, to my mind, will not be complete if Panchayats at the village level are not given powers to adjudicate on disputes which arise in the village itself. The practice of adjudicating disputes at the village level by the Panchayats has been an inseparable part of our social system. The term "Panchayat" itself is derived from the word "Panch", the five wise persons of the village, who had been dispensing justice in the village from time immemorial.

4. It is well known that in the institutionalised system of dispensation of justice the poor are at a great disadvantage. The system of institution and adjudication of cases in Courts which are far out of the reach of poor villagers, makes this elaborate set up a matter of unattainable luxury for the poor people. In such a situation, faced with injustice and oppression, he has only to suffer in silence. The situation cries out for urgent remedial action and it is incumbent on us, charged as we are with the responsibility of laying down a framework of effective Panchayati Raj Institution in the country, to suggest corrective action in this regard.

5. The idea is not new. The Law Commission in their 114th Report recognised that Panchayat Courts are capable of doing a great deal of useful work by relieving regular courts of petty civil litigations and criminal cases of simpler types. The Commission recommended exclusive jurisdiction and setting out cases triable by such Panchayats very clearly. It also recommended that these institutions which it called Gram Nyayalayas should not be bound by procedures of Court or by the Law of evidence and should wherever possible seek to effect amicable settlement between the parties.

6. The Rajgopauli Committee in its Report submitted in 1964 also favoured establishment/continuance of Nyaya Panchayats and made detailed recommendations about their jurisdiction, method of functioning, etc. It recommended election of Judges for Nyaya Panchayats with provision for co-option of women and members of Scheduled Castes.

7. I have studied the Panchayati Raj legislations of different States and I find that the Panchayati Raj Act of many States provide for establishment of Nyaya Panchayats or Gram Kachheries or similar institutions by whatever name called. In Uttar Pradesh, Karnataka, Himachal Pradesh, Gujarat, Madhya Pradesh, Bihar, Rajasthan, Andhra Pradesh, Kerala, Haryana and Punjab, the Panchayat Acts or special laws like Kerala Village Courts Act, 1960 provide for establishment of Nyaya Panchayats at the village level Panchayats for adjudication of disputes. Some States have provision for setting up of Conciliation Boards. In several States such Nyaya Panchayats have actually been set up and they are functioning and disposing of petty disputes arising within the village. It must be appreciated that through these institutions a service is being provided to the litigant public, specially the poorer section thereof and it is a unique opportunity before the Committee to make this a concomitant part of the Panchayati Raj system itself.

8. I have unfortunately not been able to persuade some other Members of the Committee to provide for Nyaya Panchayats as an integral part of Panchayati Raj system. I also apprehend that absence of any provision in the Constitution for establishment of Nyaya Panchayats would send out wrong signals to the nation. States which have legislated on such institutions but have not brought them into force, may even go back. After all, in our system, no group intends to share its power and privileges. This is the second reason for which I feel that such a provision is a must in the Constitution (Seventy-second Amendment) Bill, 1991. With this end in view I had submitted appropriate proposals for amendment to the Bill in the Joint Committee.

9. I record this minute of dissent with the hope that this will receive consideration from the Members of Parliament when the Report of the Joint Committee is presented before them and through this the nation will be nearer the fulfilment of Gandhiji's vision of Gram Swaraj.

NEW DELHI;

BHOGENDRA JHA.

Dated 1st July, 1992.

THE CONSTITUTION (SEVENTY-SECOND AMENDMENT) BILL, 1991

(AS REPORTED BY THE JOINT COMMITTEE)

[Words underlined or side-lined indicate the amendments suggested by the Committee, asterisks indicate omissions.]

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Constitution (Seventy-second Amendment) Act, 1992.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Inser-
tion
of new
Part IX.

2. After Part VIII of the Constitution, the following Part shall be inserted, namely:—

PART IX

THE PANCHAYATS

Defini-
tions.

243. In this Part, unless the context otherwise requires,—

(a) "district" means a revenue district in a State;

(b) "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;

(c) "intermediate level" means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;

(d) "Panchayat" means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;

(e) "Panchayat area" means the territorial area of a Panchayat;

(f) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(g) "village" means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

243A. The Legislature of a State may, by law, provide for a Gram Sabha which shall perform such functions at the village level as may be entrusted to it by such law.

Gram
Sabha.

243B. There shall be constituted in every State, within one year from the commencement of the Constitution (Seventy-second Amendment) Act, 1992, Panchayats at the village, intermediate and direct levels in accordance with the provisions of this Part.

Constitu-
tion of
Pancha-
yats.

243C. (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats:

Compo-
sition of
Pancha-
yats.

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by law, provide for the representation,—

(a) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level;

(b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;

(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within—

(i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level;

(ii) a Panchayat area at the district level, in Panchayat at the district level.

(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

(5) The Chairperson of—

(a) a Panchayat at the village level shall be chosen by direct election; and

(b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

(6) Where the Chairperson of a Panchayat at the village level has been chosen by direct election, he shall not be removed from that office unless—

(a) the Panchayat has made a recommendation to the Gram Sabha for the removal of the Chairperson, after adopting a motion by a majority of the total number of the elected members of the Panchayat and by a majority of not less than two-thirds of such members present and voting; and

(b) the Gram Sabha has, at a meeting specially convened for the purpose, passed a resolution for the removal of the Chairperson by a majority of its members present and voting; so, however, that not less than fifty per cent. of the members of the Gram Sabha are present at such meeting:

Provided that the meeting of the Gram Sabha is held after a notice of not less than fifteen days:

Provided further that if the meeting of the Gram Sabha cannot be held for want of quorum, the motion adopted by the Panchayat under clause (a) shall lapse and no further motion for the removal of the Chairperson shall be moved in the Panchayat within a period of one year from the date of adoption of the previous motion by the Panchayat.

(7) Where the Chairperson of a Panchayat has been elected by, and from amongst, the elected members of the Panchayat, he shall not be removed from that office unless the Panchayat has passed a resolution to that effect by a majority of the total number of the elected members of the Panchayat and by a majority of not less than two-thirds of such members present and voting.

243D. (1) Seats shall be reserved for—

(a) the Scheduled Castes; and

(b) the Scheduled Tribes.

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and allotted by rotation to different constituencies in a Panchayat.

(4) The office of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of office of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or office of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

243E. (1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

Duration
of Pancha-
yats etc.

* * * * *

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Panchayat shall be completed—

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution;

Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat.

(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved.

Disqualifi-
cations for
member-
ship.

243F. (1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat—

* * * * *

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned;

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

Powers,
authority
and res-
ponsibili-
ties of
Pancha-
yats.

243G. Subject to the provisions of the Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to—

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

Powers to
impose
taxes by,
and
Funds of,
the Pan-
chayats.

243H. The Legislature of a State may, by law,—

(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

243-I. (1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to—

Constitution of Finance Commission to review financial position.

(a) the principles which should govern—

(i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243J. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

Audit of accounts of Panchayats.

Powers of
Legisla-
ture of a
State to
make pro-
visions
with res-
pect to
elections
to Pan-
chayats.

Appli-
cation to
Union
terri-
tories.

Part
not to
apply to
certain
areas.

Continu-
ance of
existing
laws and
Pancha-
yats.

243K. Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats under the superintendence, direction and control of such separate authority as may be provided in such law.

243L. ***The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall ***apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243M. (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

(2) Nothing in this Part shall apply to—

(a) the States of Nagaland, Meghalaya and Mizoram;

(b) the Hill Area in the State of Manipur for which District Council exist; and the Hill Areas of the District of Darjeeling in the State of West Bengal for which the Darjeeling Gorkha Hill Council exists, under any law for the time being in force.

(3) Notwithstanding anything in this Constitution,—

(a) the Legislature of a State referred to in sub-clause (a) of clause (2) may, by law, extend this Part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting;

(b) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243N. Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-second Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a

competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243-O. Notwithstanding anything in this Constitution,—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

Bar to interference by courts in electoral matters.

3. After the Tenth Schedule to the Constitution, the following Schedule shall be added, namely:—

Addition of Eleventh Schedule.

“ELEVENTH SCHEDULE

(Article 243G)

1. Agriculture, including agricultural extension.
2. Land improvement and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.

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17. Education, including primary and secondary schools.
 18. Technical training and vocational education.
 19. Adult and non-formal education.
 20. Libraries.
 21. Cultural activities.
 22. Markets and fairs.
 23. Health and sanitation, including hospitals, primary health centres and dispensaries.
 24. Family welfare.
 25. Women and child development.
 26. Social welfare, including welfare of the handicapped and mentally retarded.
 27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
 29. Public distribution system.
 29. Maintenance of community assets."
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C. K. JAIN,
Secretary-General.